Section 1: [Restrictive Covenants Section 8.2] Drought-Resistant Landscaping, Rain Barrels, and Composting

Front and side yards must be maintained exclusively in green turf grass. Rainwater harvesting barrels, compost bins, and xeriscaping utilizing decomposed granite or native drought-tolerant plants in lieu of turf grass are prohibited on any Lot.

ISSUE #1

Section 2: [Restrictive Covenants Section 9.5] Standby Electric Generators

Permanent natural gas or propane standby electric generators are prohibited on residential Lots due to noise and visual impact. Only portable emergency generators may be operated during an active utility power outage and must be stored inside the garage immediately upon restoration of power.

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. 2 (p. 1): Covenant prohibits or unlawfully restricts permanently installed standby electric generators in violation of Tex. Prop. Code § 202.019.

Statutory / Legal Reference: Tex. Prop. Code § 202.019

Statutory Comparison: Under Tex. Prop. Code § 202.019(b), a property owners' association may not adopt or enforce a dedicatory instrument provision that prohibits, or has the effect of prohibiting, an owner from owning, operating, installing, or maintaining a permanently installed standby electric generator on the owner's property (subject only to reasonable code, safety, setback, and screening requirements under § 202.019(c) that do not increase installation costs by more than 10% or 20%).

CURRENT WORDING IN DOCUMENT:

[Restrictive Covenants Section 9.5] Standby Electric Generators Permanent natural gas or propane standby electric generators are prohibited on residential Lots due to noise and visual impact. Only portable emergency generators may be operated during an active utility power outage and must be stored inside the garage immediately upon restoration of power.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Notwithstanding anything herein to the contrary, pursuant to Tex. Prop. Code § 202.019, an Owner may install, maintain, and operate a permanently installed standby electric generator on the Owner's lot in compliance with applicable electrical/fire codes and the reasonable location and screening standards permitted under § 202.019(c).